

**CORPORATE INTEGRITY AGREEMENT  
BETWEEN THE  
OFFICE OF INSPECTOR GENERAL  
OF THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES,  
JACK HILTON, M.D.  
AND  
PHC-MISSISSIPPI, L.L.C.**

**I. PREAMBLE**

Jack Hilton, M.D. ("Hilton") and PHC- Mississippi, L.L.C. ("PHC-MS") hereby enter into this Corporate Integrity Agreement ("CIA") with the Office of Inspector General ("OIG") of the United States Department of Health and Human Services ("HHS"). All terms and obligations of this CIA shall attach to any and all entities, including but not limited to PHC-MS, that submit claims for reimbursement to Medicare, Medicaid, or any other Federal health care program (as defined in 42 U.S.C. § 1320a-7b(f)) (hereinafter collectively referred to as the "Federal health care programs"), in which Hilton has or gains an ownership or management interest during the term of this CIA (such entities shall hereinafter be referred to individually and collectively as "Hilton Practices"). This CIA is intended to ensure compliance with the requirements of the "Federal health care programs by Hilton, PHC-MS, all Hilton Practices, and their employees, physicians and other health care professionals, as well as all third parties with whom Hilton, PHC-MS, or any Hilton Practice may choose to engage to act as billing or coding agents or consultants. Hilton's and the Hilton Practices' compliance with the terms and conditions in this CIA shall constitute an element of Hilton's present responsibility to participate in the Federal health care programs. PHC-MS's compliance with the terms and conditions of this CIA shall constitute an element of PHC-MS's present responsibility to participate in the Federal health care programs. Contemporaneously with this CIA, Hilton and PHC-MS are entering into a Settlement

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Agreement with the United States, and this CIA is incorporated by reference into the Settlement Agreement.

For the purposes of this CIA, an "ownership or management interest" shall mean a direct or indirect ownership or control interest (as defined in 42 U.S.C. §1320a-3(a)(3)), or the position of officer, director, agent, or managing employee (as defined in 42 U.S.C. § 1320a-5(b)). At the time of execution of this CIA, Hilton represents that PHC-MS and PHC-Illinois 1, S.C. ("PHC-IL") are the only entities that submit claims for reimbursement to the Federal health care programs in which Hilton has such an ownership or management interest. Hilton is obligated under this CIA to ensure that all Hilton Practices meet and comply with all obligations of this CIA.

Throughout the entirety of this CIA, PHC-MS shall be referred to as a "Hilton Practice." In the event that Hilton divests himself of all ownership and management interest in PHC-MS before the end of the term of this CIA, then (1) Hilton will no longer have responsibility for the compliance obligations of PHC-MS, and (2) PHC-MS shall assume full responsibility for all of its obligations as a Hilton Practice as set forth in this CIA, with the following exceptions:

1. *Compliance Officer.* The PHC-MS Compliance Officer will assume full responsibility for all of PHC-MS's compliance obligations, and shall make all certifications formerly required of the Coordinating Compliance Officer.
2. *Confidential Disclosure Program.* PHC-MS shall establish its own Confidential Disclosure Program, with PHC-MS's Compliance Officer assuming full responsibility for PHC-MS's Confidential Disclosure Program.
3. *Annual Report.* PHC-MS shall submit its own Implementation and/or Annual Reports to the OIG, covering all activity occurring from the time Hilton divested himself of interest in PHC-MS. PHC-MS shall not be included in the Hilton Practice's reports for the period of time in which PHC-MS is not a Hilton Practice.
4. *Breach and Default.* All notices and correspondence relating to PHC-MS and alleged breaches of this CIA, stipulated penalties, exclusion actions and dispute resolutions under this CIA shall be sent directly to PHC-MS only, and not to Hilton.

## II. TERM OF THE CIA

The period of the compliance obligations assumed by Hilton, PHC-MS, and the Hilton Practices under this CIA shall be five years (unless otherwise specified) from the

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date on which the final signature of this CIA is acquired. The "effective date" of this CIA will be the date on which the final signature of this CIA is acquired, thereby executing this CIA, or, for any entity becoming a "Hilton Practice" after the execution of this CIA, the date on which that entity becomes a Hilton Practice.

### **III. CORPORATE INTEGRITY OBLIGATIONS**

Each Hilton Practice shall establish a compliance program that includes the following elements.

#### **A. Compliance Officers**

Within 90 days after the effective date of this CIA, each Hilton Practice shall appoint an individual to serve as Compliance Officer, who shall be responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements set forth in this CIA and with the requirements of the Federal health care programs. Each Compliance Officer shall be a member of senior management of the respective Hilton Practice, shall make regular (at least quarterly) reports regarding compliance matters directly to the CEO and/or to the Board of Directors of the respective Hilton Practice, and shall be authorized to report to the Board of Directors at any time. Each Compliance Officer shall be responsible for monitoring the day-to-day activities engaged in by the respective Hilton Practice to further its compliance objectives as well as for any reporting obligations created under this CIA. In the event a new Compliance Officer is appointed during the term of this CIA, the Hilton Practice shall notify the OIG, in writing, within fifteen (15) days of such a change.

In addition to the Compliance Officers at each individual Hilton Practice, within 90 days after the effective date of this CIA, Hilton shall hire a Coordinating Compliance Officer who shall be responsible for ensuring that the individual Compliance Officers fulfill their duties and that all of the requirements of this CIA are complied with by Hilton and the Hilton Practices. The Coordinating Compliance Officer shall report directly to Hilton.

#### **B. Written Standards**

1. *Code of Conduct.* Within 90 days after the effective date of this CIA, each Hilton Practice shall establish and distribute a Code of Conduct to all employees, physicians, contractors and agents of the respective Hilton Practice. Each Hilton Practice shall make the promotion of, and adherence to, the Code of Conduct an element in

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evaluating the performance of managers, supervisors, and all other employees. Each Code of Conduct shall, at a minimum, set forth:

- a. The respective Hilton Practice's commitment to full compliance with all statutes, regulations, and guidelines applicable to all Federal health care programs, including its commitment to prepare and submit accurate billings consistent with Federal health care program regulations and procedures or instructions otherwise communicated by the Health Care Financing Administration ("HCFA") (or other appropriate regulatory agencies) and/or its agents;
- b. The respective Hilton Practice's expectation that all of its employees, physicians, contractors and agents shall comply with all statutes, regulations, and guidelines applicable to the Federal health care programs and with the respective Hilton Practice's own policies and procedures (including the requirements of this CIA);
- c. The respective Hilton Practice's expectation that all of its employees, physicians, contractors and agents shall report suspected violations of any statute, regulation, or guideline applicable to Federal health care programs or of the respective Hilton Practice's own Policies and Procedures;
- d. The possible consequences to both the respective Hilton Practice and to any employee, physician, contractor or agent of failure to comply with all statutes, regulations, and guidelines applicable to the Federal health care programs and with the respective Hilton Practice's own Policies and Procedures or of failure to report such non-compliance; and
- e. The right of all employees, physicians, contractors and agents to use the Confidential Disclosure Program, as well as the respective Hilton Practice's commitment to confidentiality and non-retaliation with respect to disclosures.

Each employee, physician, contractor and agent of Hilton and of each Hilton Practice shall certify, in writing, that he or she has received, read, understands, and will abide by the appropriate Hilton Practice's Code of Conduct. New employees, physicians, contractors and agents shall receive the Code of Conduct and shall complete the required

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certification within two (2) weeks after the commencement of their employment or contract, or within 90 days of the effective date of the CIA, whichever is later.

Each Hilton Practice will annually review its Code of Conduct and will make any necessary revisions. These revisions shall be distributed within 30 days of initiating such a change. Employees, physicians, contractors and agents shall certify on an annual basis that they have received, read, understand and will abide by the appropriate Code of Conduct.

2. *Policies and Procedures.* Within 90 days after the effective date of this CIA, each Hilton Practice shall develop and initiate implementation of written Policies and Procedures regarding the operation of the respective Hilton Practice's compliance program and its compliance with all federal and state health care statutes, regulations, and guidelines, including the requirements of the Federal health care programs. At a minimum, the Policies and Procedures shall specifically address proper billing to the Federal health care programs for services provided under a physician's supervision. In addition, the Policies and Procedures shall include disciplinary guidelines and methods for employees to make disclosures or otherwise report on compliance issues to the respective Hilton Practice's management through the Confidential Disclosure Program required by section III.E. Each Hilton Practice shall assess and update as necessary the Policies and Procedures as appropriate and at least annually. A summary of the Policies and Procedures will be provided to OIG in the Implementation Report. The Policies and Procedures will be available to OIG upon request.

Within 90 days of the effective date after this CIA, the relevant portions of the Policies and Procedures for each Hilton Practice shall be distributed to all appropriate employees, physicians, contractors and agents of the respective Hilton Practice. Compliance staff or supervisors should be available to explain any and all Policies and Procedures.

### C. Training and Education

1. *General Training.* Within 90 days after the effective date of this CIA, each Hilton Practice shall provide at least two (2) hours of training regarding compliance obligations and the respective Hilton Practice's compliance program to each of its employees, physicians, contractors and agents. This general training shall explain the respective Hilton Practice's:

a. Corporate Integrity Agreement requirements;

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- b. Compliance Program (including the Policies and Procedures as they pertain to general compliance issues); and
- c. Code of Conduct.

Persons providing the general training must be knowledgeable on the subject area. The training materials used in the general training shall be made available to the OIG, upon request.

New employees, physicians, contractors and agents shall receive the general training described above within 30 days of the beginning of their employment or contract, or within 90 days after the effective date of this CIA, whichever is later. Each year, every employee, physician, contractor and agent shall receive such general training on an annual basis.

2. *Specific Training.* Within 90 days after the effective date of this CIA, each Hilton Practice shall provide at least four (4) hours of training in addition to the general training required above to each employee, physician, contractor or agent who is involved directly or indirectly in the delivery of patient care and/or in the preparation or submission of claims for reimbursement for such care (including, but not limited to, coding and billing) for any Federal health care program. This training shall include a discussion of:

- a. the submission of accurate bills for services rendered to Federal health care program beneficiaries;
- b. policies, procedures and other requirements applicable to the documentation of medical records;
- c. the personal obligation of each individual involved in the billing process to ensure that such billings are accurate;
- d. applicable reimbursement rules and statutes;
- e. the legal sanctions for improper billings; and
- f. examples of proper and improper billing practices.

Persons providing the specific training must be knowledgeable about the subject area. The training materials used in the specific training shall be made available to OIG, upon request.

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All new employees, physicians, contractors and agents who will be involved directly or indirectly in the delivery of patient care and/or in the preparation or submission of claims for reimbursement for such care (including, but not limited to, coding and billing) for any Federal health care program shall receive this specific training within 30 days of the beginning of their employment or contract or within 90 days of the effective date of this CIA, whichever is later. If a new employee, physician, contractor or agent of a Hilton Practice has any responsibility for the delivery of patient care, the preparation or submission of claims and/or the assignment of procedure codes prior to completing this specific training, an employee, physician, contractor or agent of that Hilton Practice who has completed the training shall review all of the untrained person's work regarding the delivery of patient care, the preparation or submission of claims and/or the assignment of procedure codes.

Every employee, physician, contractor and agent of each Hilton Practice who is involved directly or indirectly in the delivery of patient care and/or in the preparation or submission of claims for reimbursement for such care (including, but not limited to, coding and billing) for any Federal health care program shall receive such specific training on an annual basis.

3. *Certification.* Each employee, physician, contractor and agent of each Hilton Practice shall certify, in writing, that he or she has attended the training as required above. The certification shall specify the type of training received and the date received. The Compliance Officer shall retain the certifications, along with the training materials used. These shall be made available to OIG upon request.

### **D. Review Procedures**

Each Hilton Practice shall retain an entity, such as an accounting, auditing or consulting firm (hereinafter "Independent Review Organization"), to perform review procedures to assist that Hilton Practice in determining the adequacy of its billing and compliance practices pursuant to this CIA. Such review procedures shall be performed annually and shall cover a 12-month period. The Independent Review Organization must have expertise in the billing, coding, reporting and other requirements of the Federal health care programs from which the retaining Hilton Practice seeks reimbursement. The Independent Review Organization must be retained within 90 days of the effective date of this CIA to conduct the audit of the first year.

The Independent Review Organization(s) shall be retained by each Hilton Practice to conduct two separate engagements. One engagement will analyze the retaining Hilton

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Practice's billing to the Federal health care programs to assist the retaining Hilton Practice and OIG in determining compliance with all applicable statutes, regulations, and directives/guidance (the "billing engagement"). The second engagement will determine whether the retaining Hilton Practice is in compliance with this CIA (the "compliance engagement").

1. *Billing Engagement.* The billing engagement shall consist of a review of a statistically valid sample of claims that can be projected to the population of claims for the relevant period. The sample size shall be determined through the use of a probe sample. The probe sample must contain at least thirty (30) sample units and cannot be used as part of the full sample. The full sample must contain a sufficient number of units so that when the sample results are projected to the population of claims, the projection provides a minimum ninety (90) percent confidence level and a maximum precision of plus or minus twenty-five (25) percent of the point estimate (i.e., the upper and lower bounds of the ninety (90) percent confidence interval shall not exceed 125% and shall not fall below 75% of the midpoint of the confidence interval, respectively). Both the probe sample and the sample must be selected through random numbers. The Independent Review Organization shall use OIG's Office of Audit Services Statistical Sampling Software, also known as "RAT-STATS," which is available through the Internet at "[www.hhs.gov/progorg/oas/ratstat.html](http://www.hhs.gov/progorg/oas/ratstat.html)".

Each annual billing engagement analysis shall include the following components in its methodology:

- a. *Billing Engagement Objective:* A clear statement of the objective intended to be achieved by the billing engagement and the procedure or combination of procedures that will be applied to achieve the objective.
- b. *Billing Engagement Population:* The identity of the population, which is the group about which information is needed, and an explanation of the methodology used to develop the population and the basis for this determination.
- c. *Sources of Data:* A full description of the source of the information upon which the billing engagement conclusions will be based, including the legal or other standards applied, documents relied upon, payment data, and/or any contractual obligations.



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- d. Sampling Unit: A definition of the sampling unit, which is any of the designated elements that comprise the population of interest.
- e. Sampling Frame: The identity of the sampling frame, which is the totality of the sampling units from which the sample will be selected.

The Independent Review Organization shall provide to the retaining Hilton Practice a report detailing its findings as a result of the billing engagement. This report shall include:

- a. Findings regarding the retaining Hilton Practice's billing and coding operation (including, but not limited to, the operation of the billing system, strengths and weaknesses of this system, internal controls, effectiveness of the system);
- b. Findings regarding whether the retaining Hilton Practice is submitting accurate claims for services billed to the Federal health care programs.
- c. Findings regarding the retaining Hilton Practice's procedures to correct inaccurate billings or codings to the Federal health care programs;
- d. Findings regarding whether the retaining Hilton Practice's programs, policies, operations, and procedures comply with the applicable statutes, regulations and other requirements the Federal health care programs from which the retaining Hilton Practice seeks reimbursement; and
- e. Findings regarding of the steps the retaining Hilton Practice is taking to bring its operations into compliance or to correct problems identified by the audit.

A complete copy of each Independent Review Organization's billing engagement methodology and report for each Hilton Practice shall be included in the Annual Report to OIG for the year in which the engagement was conducted.

**2. Compliance Engagement.** The compliance engagement shall provide an analysis of whether the retaining Hilton Practice's program, policies, procedures, and operations comply with the terms of this CIA. The Independent Review Organization shall provide to the retaining Hilton Practice a report detailing its findings as a result of

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the compliance engagement. This report shall include a section-by-section analysis of whether the retaining Hilton Practice is complying with the obligations of this CIA.

A complete copy of each Independent Review Organization's compliance report for each Hilton Practice shall be included in the Annual Report to OIG for the year in which the engagement was conducted.

3. *Disclosure of Overpayments and Material Deficiencies.* If, as a result of these engagements or through any other means, Hilton or one of the Hilton Practices or the Independent Review Organization identifies any billing, coding or other policies, procedures and/or practices that result in an overpayment (as defined below), Hilton or the appropriate Hilton Practice shall notify the payor (e.g., Medicare fiscal intermediary or carrier) within 30 days of discovering the deficiency or overpayment and take remedial steps within 60 days of discovery (or such additional time as may be agreed to by the payor) to correct the problem, including preventing the deficiency from recurring. The notice to the payor shall include:

- a. A statement that the refund is being made pursuant to this CIA;
- b. A description of the complete circumstances surrounding the overpayment;
- c. The methodology by which the overpayment was determined;
- d. The amount of the overpayment;
- e. Any claim-specific information used to determine the overpayment (e.g., beneficiary health insurance number, claim number, service date, and payment date); and
- f. The provider identification number under which the repayment is being made.

If Hilton or any of the Hilton Practices determines an overpayment represents a material deficiency (as defined below), contemporaneous with Hilton's or the appropriate Hilton Practice's notification to the payor as provided above, Hilton or the appropriate Hilton Practice shall also notify OIG of:

- a. A complete description of the material deficiency;
- b. The amount of overpayment due to the material deficiency;

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- c. The appropriate Hilton Practice's action(s) to correct and prevent such material deficiency from recurring;
- d. The payor's name, address, and contact person where the overpayment was sent;
- e. The date of the check and identification number (or electronic transaction number) on which the overpayment was repaid.

For purposes of this CIA, an "overpayment" shall mean the amount of money the provider has received in excess of the amount due and payable under the Federal health care programs' statutes, regulations or program directives, including carrier and intermediary instructions.

For purposes of this CIA, a "material deficiency" shall mean anything that involves: (i) a substantial overpayment or improper payment relating to any Federal health care program; (ii) conduct or policies that clearly violate the Federal health care program statutes, regulations or directives issued by HCFA and/or its agents or the regulators or agents of any Federal health care program; or (iii) serious quality of care implications for Federal health care beneficiaries or recipients. A material deficiency may be the result of an isolated event or a series of occurrences.

4. *Verification/Validation.* In the event that the OIG determines that it is necessary to conduct an independent review to determine whether or the extent to which Hilton or any Hilton Practice is complying with its obligations under this CIA, Hilton and the appropriate Hilton Practice agree to pay for the reasonable cost of any such review or engagement by the OIG or any of its designated agents.

### E. Confidential Disclosure Program

Hilton shall develop a Confidential Disclosure Program, which must include measures to enable employees, physicians, contractors, agents or other individuals at all Hilton Practices to disclose to the Coordinating Compliance Officer any identified issues or questions associated with any Hilton Practice's policies, practices or procedures with respect to a Federal health care program, believed by the individual to be inappropriate.

The Confidential Disclosure Program shall emphasize a non-retribution, non-retaliation policy, and shall include a reporting mechanism for anonymous, confidential communication. Upon receipt of a complaint, the Coordinating Compliance Officer (or designee) shall gather the information in such a way as to elicit all relevant information from the individual reporting the alleged misconduct. The Compliance Officer (or

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designee) shall make a preliminary good faith inquiry into the allegations set forth in every disclosure to ensure that he or she has obtained all of the information necessary to determine whether a further review should be conducted. For any disclosure that is sufficiently specific so that it reasonably: (1) permits a determination of the appropriateness of the alleged improper practice, and (2) provides an opportunity for taking corrective action, the Hilton Practice shall conduct an internal review of the allegations set forth in such a disclosure and ensure that proper follow-up is conducted.

The Coordinating Compliance Officer shall maintain a confidential disclosure log, which shall include a record and summary of each allegation received, the status of the respective investigations, and any corrective action taken in response to the investigation.

### F. Ineligible Persons

1. *Definition.* For purposes of this CIA, an "Ineligible Person" shall be any individual or entity who: (i) is currently excluded, suspended, debarred or otherwise ineligible to participate in the Federal health care programs; or (ii) has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the Federal health care programs after a period of exclusion, suspension, debarment, or ineligibility.

2. *Screening Requirements.* Neither Hilton nor any Hilton Practice shall hire or engage as contractors any Ineligible Person. To prevent hiring or contracting with any Ineligible Person, Hilton and each Hilton Practice shall screen all prospective employees and prospective contractors prior to engaging their services by (i) requiring applicants to disclose whether they are Ineligible Persons, and (ii) reviewing the General Services Administration's List of Parties Excluded from Federal Programs (available through the Internet at <http://www.arnet.gov/epl>) and the HHS/OIG List of Excluded Individuals/Entities (available through the Internet at <http://www.dhhs.gov/progorg/oig>, and formerly known as the "HHS/OIG Cumulative Sanctions Report") (these lists and reports will hereinafter be referred to as the "Exclusion Lists").

3. *Review and Removal Requirement.* Within ninety (90) days of the effective date of this CIA, Hilton and each Hilton Practice will review his/its list of current employees and contractors against the Exclusion Lists. Thereafter, Hilton and each Hilton Practice will review the list once annually. If Hilton or any Hilton Practice has notice that an employee, agent, or physician has become an Ineligible Person, Hilton or that Hilton Practice will remove such person from responsibility for, or involvement with, Hilton's or that Hilton Practice's business operations related to the Federal health

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care programs and shall remove such person from any position for which the person's salary or the items or services rendered, ordered, or prescribed by the person are paid in whole or part, directly or indirectly, by Federal health care programs or otherwise with Federal funds at least until such time as the person is reinstated into participation in the Federal health care programs.

4. *Pending Charges and Proposed Exclusions.* If Hilton or any Hilton Practice has notice that an employee or contractor is charged with a criminal offense related to any Federal health care program, or is suspended or proposed for exclusion during his or her employment or contract with Hilton or that Hilton Practice, within 10 days of receiving such notice Hilton or that Hilton Practice will remove such individual from responsibility for, or involvement with, Hilton's or that Hilton Practice's business operations related to the Federal health care programs until the resolution of such criminal action, suspension, or proposed exclusion.

### G. Notification of Proceedings

Within 30 days of discovering any ongoing investigation or legal proceeding conducted or brought by a governmental entity or its agents involving an allegation that Hilton or any Hilton Practice has committed a crime or has engaged in fraudulent activities or any other knowing misconduct, Hilton or the appropriate Hilton Practice shall notify the OIG in writing of the investigation or legal proceeding. This notification shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding. Hilton or the appropriate Hilton Practice shall also provide written notice to OIG within 30 days of the resolution of the matter, and shall provide OIG with a description of the findings and/or results of the proceedings, if any.

### H. Reporting

1. *Credible Evidence of Misconduct.* If Hilton or any Hilton Practice discovers credible evidence of his or its own misconduct from any source and, after reasonable inquiry, has reason to believe that the misconduct may violate criminal, civil, or administrative law concerning Hilton's or that Hilton Practice's practices relating to the Federal health care programs, then Hilton or the appropriate Hilton Practice shall promptly report the probable violation of law to OIG. Hilton or the appropriate Hilton Practice shall make this disclosure as soon as practicable, but not later than 15 days after becoming aware of the existence of the probable violation. Hilton's or the Hilton Practice's report to OIG shall include:

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- a. the findings concerning the probable violation, including the nature and extent of the probable violation;
- b. Hilton's or the Hilton Practice's actions to correct such probable violation; and
- c. any further steps it plans to take to address such probable violation and prevent it from recurring.

To the extent the misconduct involves an overpayment or a material deficiency, the report shall include the information listed in section III.D.3 regarding overpayments and material deficiencies.

2. *Inappropriate Billing.* If Hilton or any Hilton Practice discovers inappropriate or incorrect billing through means other than the Independent Review Organization's engagement, Hilton or that Hilton Practice shall follow procedures in section III.D.3 regarding overpayments and material deficiencies.

## **IV. NEW OPERATIONS**

In the event that Hilton or any Hilton Practice purchases or establishes new business units after the effective date of the CIA or Hilton obtains an ownership or management interest in an entity (thus converting the entity into a Hilton Practice), Hilton or the Hilton Practice shall notify OIG of this fact within 30 days of the date of purchase or establishment. This notification shall include the location of the new operation(s), phone number, fax number, Federal health care program provider number(s) (if any), and the corresponding payor(s) (contractor specific) that has issued each provider number. If such a new business unit falls into the definition of a "Hilton Practice" (as described in the Preamble), then all obligations of this CIA that may be imposed upon such a new Hilton Practice shall be met in a timely manner as if the date of purchase or establishment of the new Hilton Practice were the effective date of this CIA.

In the event that Hilton intends to divest himself of his ownership and/or management interest in PHC-MS, Hilton shall so notify the OIG, in writing, within 30 days before such change in interest.

## **V. IMPLEMENTATION AND ANNUAL REPORTS**

### **A. Implementation Reports**

Within 120 days after the effective date of this CIA, Hilton and the Hilton Practices shall submit a written report to OIG summarizing the status of their

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implementation of the requirements of this CIA. This Implementation Report shall include:

1. The name, address, phone number and position description of the Coordinating Compliance Officer and the individual Compliance Officers required by section III.A;
2. A copy of each Hilton Practice's Codes of Conduct required by section III.B.1;
3. The summary of each Hilton Practice's Policies and Procedures required by section III.B.2;
4. A description of the training programs required by section III.C including a description of the targeted audiences and a schedule of when the training sessions were held;
5. A certification by the Coordinating Compliance Officer that:
  - a. the Policies and Procedures required by section III.B have been developed, are being implemented, and have been distributed to all pertinent employees, physicians, contractors and agents;
  - b. all employees, physicians, contractors and agents have completed the Code of Conduct certification required by section III.B.1; and
  - c. all employees, physicians, contractors and agents have completed the training and executed the certification required by section III.C.
6. A description of the Confidential Disclosure Programs required by section III.E;
7. The identity of the Independent Review Organization(s) and the proposed start and completion date of the initial audits; and
8. A summary of personnel actions taken pursuant to section III.F.

### **B. Annual Reports**

Hilton and the Hilton Practices shall collectively submit to OIG Annual Reports with respect to the status and findings of each Hilton Practice's compliance activities.

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The Annual Reports shall include:

1. Any change in the identity or position description of the Coordinating Compliance Officer or any of the individual Compliance Officers described in section III.A;
2. A certification by the Coordinating Compliance Officer that:
  - a. all employees, physicians, contractors and agents have completed the annual Code of Conduct certification required by section III.B.1; and
  - b. all employees, physicians, contractors and agents have completed the training and executed the certification required by section III.C;
3. Notification of any changes or amendments to any of the Policies and Procedures required by section III.B and the reasons for such changes (e.g., change in contractor policy);
4. A complete copy of the reports prepared pursuant to the Independent Review Organization's billing and compliance engagements, including a copy of the methodology used;
5. A comprehensive report summarizing the results of the Independent Review Organizations' billing and compliance engagements for all Hilton Practices;
6. The Hilton Practices' response/corrective action plan(s) to any issues raised by the Independent Review Organization(s) and the status of such action(s);
7. A summary of material deficiencies reported throughout the course of the previous twelve (12) months pursuant to III.D.3 and III.H;
8. A report of the aggregate overpayments that have been returned to the Federal health care programs that were discovered as a direct or indirect result of implementing this CIA. Such report shall include the date on which the overpayment was remitted, and the contractor or entity to whom the remittance was made. Overpayment amounts should be identified by the recipient (i.e., Hilton or the specific Hilton Practice) and broken down into the following categories: Medicare, Medicaid (report each applicable state separately) and other Federal health care programs;



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9. A copy of the confidential disclosure logs required by section III.E;
10. A description of any personnel action (other than hiring) taken by Hilton or a Hilton Practice as a result of the obligations in section III.F;
11. A summary describing any ongoing investigation or legal proceeding conducted or brought by a governmental entity involving an allegation that Hilton or any Hilton Practice has committed a crime or has engaged in fraudulent activities, which have been reported pursuant to section III.G. The statement shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation, legal proceeding or requests for information; and
12. A listing of all of Hilton's and all of the Hilton Practices' locations (including locations and mailing addresses), the corresponding name under which each location is doing business, the corresponding phone numbers and fax numbers, each location's Federal health care program provider identification number(s) and the payor (specific contractor) that issued each provider identification number.

The first Annual Report shall be received by the OIG no later than one year and 30 days after the date of execution of this CIA. Subsequent Annual Reports shall be submitted no later than the anniversary date of the due date of the first Annual Report.

### **C. Certifications**

The Implementation Report and Annual Reports shall include a certification by the Coordinating Compliance Officer under penalty of perjury that: (1) Hilton and each Hilton Practice is in compliance with all of the requirements of this CIA, to the best of his or her knowledge; and (2) the Coordinating Compliance Officer has reviewed the Report and has made reasonable inquiry regarding its content and believes that, upon such inquiry, the information is accurate and truthful.

### **VI. NOTIFICATIONS AND SUBMISSION OF REPORTS**

Unless otherwise stated in writing subsequent to the effective date of this CIA, all notifications and reports required under this CIA shall be submitted to the entities listed below:

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**OIG:**

Civil Recoveries Branch - Compliance Unit  
Office of Counsel to the Inspector General  
Office of Inspector General  
U.S. Department of Health and Human Services  
Cohen Building, Room 5527  
330 Independence Avenue, SW  
Washington, DC 20201  
Phone 202-619-2078  
Fax 202-205-0604

**Hilton:**

Jack Hilton, M.D.

Phone  
Fax

**PHC-MS:**

Jack Rodriquez  
PHC-Mississippi  
49 Sargent S. Prentiss  
Natchez, MS 39120  
Phone 601-442-9210  
Fax 601-442-7409  
Medicare Provider Number:

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### **PHC-IL:**

Jack Hilton, M.D.  
PHC-Illinois

Phone

Fax

Medicare Provider Numbers:

## **VII. OIG INSPECTION, AUDIT AND REVIEW RIGHTS**

In addition to any other rights OIG may have by statute, regulation, or contract, OIG or its duly authorized representative(s), may examine Hilton's and/or any Hilton Practice's books, records, and other documents and supporting materials for the purpose of verifying and evaluating: (a) Hilton's and/or the Hilton Practice's compliance with the terms of this CIA; and (b) Hilton's and/or the Hilton Practice's compliance with the requirements of the Federal health care programs in which he or it participates. The documentation described above shall be made available by Hilton or the Hilton Practice to OIG or its duly authorized representative(s) at all reasonable times for inspection, audit or reproduction. Furthermore, for purposes of this provision, OIG or its duly authorized representative(s) may interview any of the Hilton Practices' employees, physicians, contractors or agents who consent to be interviewed at the employee's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the employee, physician, contractor or agent and OIG. Hilton and PHC-MS agree to assist OIG in contacting and arranging interviews with such employees, physicians, contractors and agents upon OIG's request. The Hilton Practice's employees may elect to be interviewed with or without a representative of Hilton or the Hilton Practice present.

## **VIII. DOCUMENT AND RECORD RETENTION**

Hilton and each Hilton Practice shall maintain for inspection all documents and records relating to reimbursement from the Federal health care programs or to compliance with this CIA, for six years from the date of execution of this CIA (or longer if otherwise required by law).

## **Exhibit A**

### **IX. DISCLOSURES**

Subject to HHS's Freedom of Information Act ("FOIA") procedures, set forth in 45 C.F.R. Part 5, the OIG shall make a reasonable effort to notify the Coordinating Compliance Officer prior to any release by OIG of information submitted by Hilton or any Hilton Practice pursuant to its obligations under this CIA and identified upon submission by Hilton or any Hilton Practice as trade secrets, commercial or financial information and privileged and confidential under the FOIA rules. Hilton and the Hilton Practices shall refrain from identifying any information as trade secrets, commercial or financial information and privileged and confidential that does not meet the criteria for exemption from disclosure under FOIA. In the event that PHC-MS is no longer a Hilton Practice, such notice as described in this section shall be sent directly to PHC-MS prior to release of information submitted by PHC-MS.

### **X. BREACH AND DEFAULT PROVISIONS**

Hilton and the Hilton Practices are expected to fully and timely comply with all of the obligations of this CIA. Hilton shall be responsible for his obligations and the obligations of any Hilton Practices. For all obligations of PHC-MS under this CIA, PHC-MS shall be responsible.

#### **A. Stipulated Penalties for Failure to Comply with Certain Obligations**

As a contractual remedy, Hilton, PHC-MS and OIG hereby agree that failure to comply with certain obligations set forth in this CIA may lead to the imposition of the following monetary penalties (hereinafter referred to as "Stipulated Penalties") in accordance with the following provisions. The following provisions describe stipulated penalties to be imposed against Hilton based on the conduct of Hilton and the Hilton Practices. To the extent PHC-MS's conduct triggers the stipulated penalty, such stipulated penalties may also be imposed upon PHC-MS under the following provisions.

1. A Stipulated Penalty of \$2,000 (which shall begin to accrue on the day after the date the obligation became due) for each day, beginning 90 days after the effective date of this CIA and concluding at the end of the term of this CIA, any Hilton Practice fails to have in place any of the following:

- a. a Compliance Officer;
- b. a written Code of Conduct;
- c. written Policies and Procedures;

## Exhibit A

- e. a training program; and
- f. a Confidential Disclosure Program;

2. A Stipulated Penalty of \$2000 (which shall begin to accrue on the day after the date the obligation became due) for each day Hilton does not have a Coordinating Compliance Officer.

3. A Stipulated Penalty of \$2000 (which shall begin to accrue on the day after the date the obligation became due) for each day Hilton or any Hilton Practice fails meet any of the deadlines to submit the Implementation Report or the Annual Reports to the OIG.

4. A Stipulated Penalty of \$1500 (which shall begin to accrue on the date the failure to comply began) for each day Hilton or any Hilton Practice:

- a. hires or enters into a contract with an Ineligible Person after that person has been listed by a federal agency as excluded, debarred, suspended or otherwise ineligible for participation in the Medicare, Medicaid or any other Federal health care program (as defined in 42 U.S.C. § 1320a-7b(f)) (this Stipulated Penalty shall not be demanded for any time period during which Hilton or the Hilton Practice can demonstrate that it did not discover the person's exclusion or other ineligibility after making a reasonable inquiry (as described in section III.F) as to the status of the person);

- b. employs or contracts with an Ineligible Person and that person: (i) has responsibility for, or involvement with, Hilton's or the Hilton Practice's business operations related to the Federal health care programs or (ii) is in a position for which the person's salary or the items or services rendered, ordered, or prescribed by the person are paid in whole or part, directly or indirectly, by Federal health care programs or otherwise with Federal funds (this Stipulated Penalty shall not be demanded for any time period during which Hilton or the Hilton Practice can demonstrate that it did not discover the person's exclusion or other ineligibility after making a reasonable inquiry (as described in section III.F) as to the status of the person); or

- c. employs or contracts with a person who: (i) has been charged with a criminal offense related to any Federal health care program, or (ii) is suspended or proposed for exclusion, and that person has responsibility for, or involvement with, Hilton's or the Hilton Practice's business operations related to the Federal health care programs (this Stipulated Penalty shall not be demanded for any time period before 10

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days after Hilton or the Hilton Practice received notice of the relevant matter or after the resolution of the matter).

4. A Stipulated Penalty of \$1500 (which shall begin to accrue on the date Hilton or the Hilton Practice fails to grant access) for each day Hilton or any Hilton Practice fails to grant access to the information or documentation as required in section VII of this CIA.

5. A Stipulated Penalty of \$1000 (which shall begin to accrue ten (10) days after the date that OIG provides notice to Hilton or the Hilton Practice of the failure to comply) for each day Hilton or any Hilton Practice fails to comply fully and adequately with any obligation of this CIA. In its notice to Hilton or the Hilton Practice, the OIG shall state the specific grounds for its determination that the Hilton or the Hilton Practice has failed to comply fully and adequately with the CIA obligation(s) at issue.

### B. Payment of Stipulated Penalties

1. *Demand Letter.* Upon a finding that Hilton or a Hilton Practice has failed to comply with any of the obligations described in section X.A and determining that Stipulated Penalties are appropriate, OIG shall notify Hilton (and/or, if appropriate, PHC-MS) by personal service or certified mail of (a) Hilton or the Hilton Practice's failure to comply; and (b) the OIG's exercise of its contractual right to demand payment of the Stipulated Penalties (this notification is hereinafter referred to as the "Demand Letter").

Within fifteen (15) days of the date of the Demand Letter, Hilton or the appropriate Hilton Practice shall either (a) cure the breach to the OIG's satisfaction and pay the applicable stipulated penalties; or (b) request a hearing before an HHS administrative law judge ("ALJ") to dispute the OIG's determination of noncompliance, pursuant to the agreed upon provisions set forth below in section X.D. In the event Hilton or PHC-MS elects to request an ALJ hearing, the Stipulated Penalties shall continue to accrue until Hilton or the Hilton Practice cures, to the OIG's satisfaction, the alleged breach in dispute. Failure to respond to the Demand Letter in one of these two manners within the allowed time period shall be considered a material breach of this CIA and shall be grounds for exclusion under section X.C.

2. *Timely Written Requests for Extensions.* Hilton or PHC-MS may submit a timely written request for an extension of time for Hilton or the Hilton Practice to perform any act or file any notification or report required by this CIA. Notwithstanding any other provision in this section, if OIG grants the timely written request with respect to

## Exhibit A

an act, notification, or report, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until one day after the Hilton or the Hilton Practice fails to meet the revised deadline as agreed to by the OIG-approved extension. Notwithstanding any other provision in this section, if OIG denies such a timely written request, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until two (2) business days after the Hilton or PHC-MS receives OIG's written denial of such request. A "timely written request" is defined as a request in writing received by OIG at least five (5) business days prior to the date by which any act is due to be performed or any notification or report is due to be filed.

3. *Form of Payment.* Payment of the Stipulated Penalties shall be made by certified or cashier's check, payable to "Secretary of the Department of Health and Human Services," and submitted to OIG at the address set forth in section VI.

4. *Independence from Material Breach Determination.* Except as otherwise noted, these provisions for payment of Stipulated Penalties shall not affect or otherwise set a standard for the OIG's determination that Hilton or a Hilton Practice has materially breached this CIA, which decision shall be made at the OIG's discretion and governed by the provisions in section X.C, below.

### C. Exclusion for Material Breach of this CIA

1. *Notice of Material Breach and Intent to Exclude.* The parties to this CIA agree that a material breach of this CIA by Hilton or any Hilton Practice constitutes an independent basis for Hilton's exclusion from participation in the Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)). The parties to this CIA agree that a material breach of this CIA by PHC-MS constitutes an independent basis for PHC-MS's exclusion from participation in the Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)). Upon a determination by OIG that Hilton, PHC-MS, and/or a Hilton Practice has materially breached this CIA and that exclusion should be imposed, the OIG shall notify Hilton and/or PHC-MS by certified mail of (a) Hilton's, PHC-MS's or the Hilton Practice's material breach; and (b) OIG's intent to exercise its contractual right to impose exclusion (this notification is hereinafter referred to as the "Notice of Material Breach and Intent to Exclude").

2. *Opportunity to Cure.* Hilton and/or PHC-MS shall have 35 days from the date of the Notice of Material Breach and Intent to Exclude Letter to demonstrate to the OIG's satisfaction that:

## Exhibit A

- a. Hilton and/or the Hilton Practice is in full compliance with this CIA;
- b. the alleged material breach has been cured; or
- c. the alleged material breach cannot be cured within the 35-day period, but that: (i) Hilton and/or the Hilton Practice has begun to take action to cure the material breach, (ii) Hilton and/or the Hilton Practice is pursuing such action with due diligence, and (iii) Hilton and/or the Hilton Practice has provided to OIG a reasonable timetable for curing the material breach.

3. *Exclusion Letter.* If at the conclusion of the 35-day period, Hilton and/or PHC-MS fails to satisfy the requirement of section X.C.2, OIG may exclude Hilton and/or PHC-MS from participation in the Federal health care programs. OIG will notify Hilton and/or PHC-MS in writing of its determination to exclude Hilton and/or PHC-MS (this letter shall be referred to hereinafter as the "Exclusion Letter"). Subject to the Dispute Resolution provisions in section X.D, below, the exclusion shall go into effect 30 days after the date of the Exclusion Letter. The exclusion shall have national effect and will also apply to all other federal procurement and non-procurement programs. If Hilton and/or PHC-MS is excluded under the provisions of this CIA, Hilton and/or PHC-MS may seek reinstatement pursuant to the provisions at 42 C.F.R. §§ 1001.3001-.3004.

4. *Material Breach.* A material breach of this CIA means:

- a. Failure to report a material deficiency, take corrective action and pay the appropriate refunds, as provided in section III.D;
- b. Repeated or flagrant violations of the obligations under this CIA, including, but not limited to, the obligations addressed in section X.A of this CIA;
- c. Failure to respond to a Demand Letter concerning the payment of Stipulated Penalties in accordance with section X.B above; or
- d. Failure to retain and use an Independent Review Organization for review purposes in accordance with section III.D.



## Exhibit A

### D. Dispute Resolution

1. *Review Rights.* Upon the OIG's delivery to Hilton or PHC-MS of its Demand Letter or of its Exclusion Letter, and as an agreed-upon contractual remedy for the resolution of disputes arising under the obligation of this CIA, Hilton and/or PHC-MS shall be afforded certain review rights comparable to the ones that are provided in 42 U.S.C. § 1320a-7(f) and 42 C.F.R. Part 1005 as if they applied to the Stipulated Penalties or exclusion sought pursuant to this CIA. Specifically, the OIG's determination to demand payment of Stipulated Penalties or to seek exclusion shall be subject to review by an ALJ and, in the event of an appeal, the Departmental Appeals Board ("DAB"), in a manner consistent with the provisions in 42 C.F.R. §§ 1005.2-1005.21. Notwithstanding the language in 42 C.F.R. § 1005.2(c), the request for a hearing involving stipulated penalties shall be made within 15 days of the date of the Demand Letter and the request for a hearing involving exclusion shall be made within 30 days of the date of the Exclusion Letter.

2. *Stipulated Penalties Review.* Notwithstanding any provision of Title 42 of the United States Code or Chapter 42 of the Code of Federal Regulations, the only issues in a proceeding for stipulated penalties under this CIA shall be (a) whether Hilton or the Hilton Practice was in full and timely compliance with the obligations of this CIA for which the OIG demands payment; and (b) the period of noncompliance. Hilton and/or PHC-MS shall have the burden of proving its full and timely compliance and the steps taken to cure the noncompliance, if any. If the ALJ finds for the OIG with regard to a finding of a breach of this CIA and orders Hilton and/or PHC-MS to pay Stipulated Penalties, such Stipulated Penalties shall become due and payable 20 days after the ALJ issues such a decision notwithstanding that Hilton and/or PHC-MS may request review of the ALJ decision by the DAB.

3. *Exclusion Review.* Notwithstanding any provision of Title 42 of the United States Code or Chapter 42 of the Code of Federal Regulations, the only issues in a proceeding for exclusion based on a material breach of this CIA shall be (a) whether Hilton or the Hilton Practice was in material breach of this CIA; (b) whether such breach was continuing on the date of the Exclusion Letter; and (c) the alleged material breach could not have been cured within the 35-day period, but that (i) Hilton or the Hilton Practice had begun to take action to cure the material breach within the 35-day time period, (ii) Hilton or the Hilton Practice had pursued and is pursuing such action with due diligence, and (iii) Hilton or PHC-MS has provided within the 35-day time period to OIG a reasonable timetable for curing the material breach, which has followed.

## **Exhibit A**

For purposes of the exclusion herein, exclusion shall take effect only after an ALJ decision that is favorable to the OIG. Hilton's or PHC-MS's election of its contractual right to appeal to the DAB shall not abrogate the OIG's authority to exclude Hilton or PHC-MS upon the issuance of the ALJ's decision. If the ALJ sustains the determination of the OIG and determines that exclusion is authorized, such exclusion shall take effect 20 days after the ALJ issues such a decision, notwithstanding that Hilton or the Hilton Practice may request review of the ALJ decision by the DAB.

4. *Finality of Decision.* The review by an ALJ or DAB provided for above shall not be considered to be an appeal right arising under any statutes or regulations. Consequently, the parties to this CIA agree that the DAB's decision (or the ALJ's decision if not appealed) shall be considered final for all purposes under this CIA and Hilton or PHC-MS agree to waive any right it may have to appeal the decision administratively, judicially or otherwise seek review by any court or other adjudicative forum.

## **XI. EFFECTIVE AND BINDING AGREEMENT**

Consistent with the provisions in the Settlement Agreement pursuant to which this CIA is entered, and into which this CIA is incorporated, Hilton, PHC-MS and OIG agree as follows:

A. This CIA shall be binding on the successors, heirs, assigns and transferees of Hilton and PHC-MS;

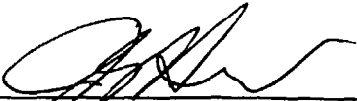
B. This CIA shall become final and binding on the date the final signature is obtained on the CIA;

C. Any modifications to this CIA shall be made with the prior written consent of the OIG and any other affected party, *i.e.*, Hilton and/or PHC-MS; and

D. The undersigned PHC-MS signatory represent and warrant that he is authorized to execute this CIA. The undersigned OIG signatory represents that he is signing this CIA in his official capacity and that he is authorized to execute this CIA.

**Exhibit A**

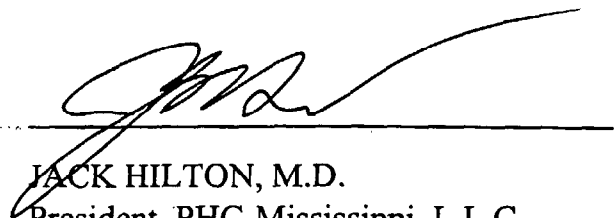
ON BEHALF OF JACK HILTON, M.D.

  
\_\_\_\_\_  
JACK HILTON, M.D.

June 2/99  
DATE

**Exhibit A**

ON BEHALF OF PHC-MISSISSIPPI, L.L.C.



JACK HILTON, M.D.  
President, PHC-Mississippi, L.L.C.

June 4/99  
DATE

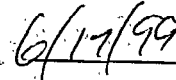
**Exhibit A**

ON BEHALF OF THE OFFICE OF INSPECTOR GENERAL  
OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES



LEWIS MORRIS

Assistant Inspector General for Legal Affairs  
Office of Inspector General  
U. S. Department of Health and Human Services



DATE